Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Oropeza	Analyst:	Deborah Barrett	Bill Number:	SB 323
Related Bills:	See Legislative History	Telephone:	845-4301	Introduced Date:	February 25, 2009
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Qualified Tuition Program Deposits/FTB Revise PIT Return To Allow Taxpayers To Designate Amount In Excess Of Tax Liability To Be Deposited In Taxpayer's Qualified Tuition Program

SUMMARY

This bill would allow taxpayers to direct an amount in excess of their tax liability to a Qualified Tuition Program account.

Provisions impacting the administration of the Scholarshare Investment Board (SIB) do not impact Franchise Tax Board (FTB) and are not discussed in this analysis.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill would be to encourage taxpayers to save for future educational expenses for themselves or their dependents.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2010, and operative for designations made on tax returns filed on and after January 1, 2010, and before December 31, 2014.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal law provides tax-exempt status to "qualified tuition programs" (QTPs). QTPs are programs established and maintained by a state, an agency, or an eligible educational institution to encourage saving for future education expenses of a designated beneficiary. Distributions and earnings from a QTP are not taxable, except to the extent the distributions exceed qualified higher education expenses, as defined. Contributions to a QTP are not deductible.

Board Position:			Department Director	Date
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California law conforms to federal law as it relates to tax-exempt QTPs. In addition, state law in the Education Code, known as the Golden State Scholarshare Trust Act, establishes authority for California's qualified state tuition plan. There is no limitation on who may make a contribution to a Golden State Scholarshare Trust Account or where a designated beneficiary must incur qualified higher education expenses.

Under current state law, the Controller has the discretion to offset any amount due a state agency from a person or entity against any amount owing that person or entity by any state agency. The FTB administers the Interagency Intercept program on behalf of the Controller. The Interagency Intercept Program requires, through an annual enrollment process, other state agencies and the IRS to provide FTB with a list of debtors and amounts owed to be offset in the following tax filing season. As returns are filed, and tax refunds issued, any refunds due to the taxpayer are offset to satisfy the debts identified by the participating agencies. All participating agencies are charged an administrative fee to cover the cost of the Intercept Program.

THIS BILL

This bill would allow taxpayers to designate on their personal income tax return an amount in excess of tax liability be deposited into a QTP, as defined. The designation is only allowed in full dollar amounts in excess of $1 and is limited to one QTP account per return.

This bill would require FTB to revise the form of the return to include the amount of the designation, account number, and named beneficiary of the QTP.

This bill would specify that if the payments on a tax return are not enough to cover both the tax liability and the amount designated for the QTP, the tax return will be treated as though the designation had not been made.

This bill would provide that if a taxpayer makes a contribution to a voluntary contribution fund, and designates an amount to a QTP, and the amount in excess of tax liability is less than the total amount designated, the amount in excess of the tax liability shall be allocated among the designees on a pro rata basis.

The bill would require the California Scholarshare Investment Board to reimburse FTB for any costs incurred to implement and maintain the bill's provisions through an interagency agreement. The total costs reimbursed by the Scholarshare Investment Board shall not exceed $475,000.

This bill's provisions would remain in effect until December 31, 2014, and as of that date would be repealed unless a later enacted statute would be enacted before December 31, 2014, that would delete or extend that date.

IMPLEMENTATION CONSIDERATIONS

This bill would require the department to modify existing tax forms and instruction booklets and make changes to the computer systems, which could be accomplished during normal annual updates but could require additional funding as described below under Fiscal Impact. Additionally, this bill would require FTB to enter into a Memorandum of Understanding with the Scholarshare Investment Board. Fiscal impacts are discussed below.

TECHNICAL CONSIDERATION

On page 4, line 18,"payments" should be revised to "tax payments"

LEGISLATIVE HISTORY

SB 918 (Oropeza 2007) would have allowed taxpayers to direct any amount in excess of their tax liability to a Qualified Tuition Program account. This bill was held in the Assembly Appropriations Suspense File.

AB 2437 (Baca, 2005/2006) would have allowed taxpayers to designate a minimum amount of $250 to be deposited to the credit of the taxpayer's QTP. AB 2437 failed to pass out of the Assembly Revenue & Taxation Committee.

OTHER STATES' INFORMATION

The states reviewed include *Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. These states have no laws similar to the provisions of this bill.

FISCAL IMPACT

Implementation of this bill could require changes to existing tax forms and electronic applications, which could result in the current tax return expanding to three pages. If the forms increase to three pages, the department would incur costs of over $2 million for revising the forms and instructions, printing, systems changes, processing, and storage. This bill would require the development of an additional form that would also impact departmental printing, processing, and storage costs. This bill would also require additional administrative and system programming costs to manage the transfer of funds to entities designated by the taxpayer. The additional costs will be identified and, if it exceeds the amount of reimbursement prescribed in the bill, an appropriation would be requested as the bill moves through the legislative process.

ECONOMIC IMPACT

Based on data and assumptions discussed below, this bill would result in the following revenue losses under the personal income tax law:

Estimated Revenue Impact for SB 323 – As Introduced 2/25/09 Enactment Assumed After June 30, 2009 For Designations Made On Tax Returns Filed On Or After January 1, 2010			
Fiscal Year	2009-10	2010-11	2011-12
Revenue Loss	N/A	-$10,000	-$10,000

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill is dependent on the extent taxpayers would realize a reduction in taxable interest income as a result of depositing a refund into a QTP account rather than a taxable interest-bearing account.

It is unknown how many taxpayers who receive refunds also have an established QTP account. In 2007, 4.8 million taxpayers received refunds totaling $3.3 billion. The average tax refund was approximately $690 ($3.3 billion in refunds divided by 4.8 million taxpayers). If one in every 100 taxpayers receiving a refund were to designate the refund to be directly deposited into an established qualified tuition account, deposits would total approximately $33 million (4.8 million taxpayers divide by 100 x $690). Absent this bill, it is assumed that these deposits to qualified tuition accounts would not occur. Assuming half of the $33 million would otherwise be deposited in taxable accounts by the end of June each year, applying a 2% interest rate would derive interest income of approximately $165,000 ($33 million x ½ x 2% x 6/12 months). Applying a marginal tax rate of 6.25% would result in a revenue loss of approximately $10,000 annually starting in fiscal year 2010-11.

LEGISLATIVE STAFF CONTACT

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